IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.227 OF 2001

Petroleum Employees Union,
Registered under the Trade Union Act,
1926, having its registered office at
Tel Resayan Bhavan, Dadar (E),
Mumbai – 400 014. .....Petitioner

V/s.

1) M/s.Oil and Natural Gas Corporation Ltd.,
through its the Chairman,-Cum-Managing
Director, having its Regd. Office at ONGC
Jeevan Bharati Tower II, 124, Cannaught Circus,
New Delhi – 110 001.

2) The Director (Personnel)
Jeevan Bharti Tower II, 124,
Cannaught Circus, New Delhi – 110 001.

3) The Group General Manager (P&A),
ONGC, MRBC, 2-A, Vasudhara Bhavan,
Bandra (E), Mumbai – 400 051. ..... Respondents

Mr.S.S.Pakale, for the petitioner
Mr.J.P.Cama, Sr.Advocate, a/w S.A.Bhalwal, for respondent No.1.
Ms.Lata B. Patne, for Union of India.

CORAM : P.B.MAJMUDAR &
R.M.SAVANT, JJ.

DATE : JUNE 25, 2009

ORAL JUDGMENT : (Per P.B.Majmudar, J.)

1. This petition is filed by the Union of Petroleum Employees.

The grievance of the petitioner-Union is that the action of the respondent

in the matter of R&P Regulations and 1997 modifications in the said regulations, may be quashed and set aside. In the aforesaid regulations, the scale of Stenographers has been lowered down and the stenographers are placed along with clerical cadre. The concerned stenographers were appointed after 1980 in the Stenographer Grade III. At the time of their appointment, they have accepted the pay scale which was prescribed for the said cadre, which is parallel to the scale of Clerk. It is the say of the petitioner-Union that the stenographers should be placed in the higher pay scale than one which is prescribed under the regulations and the scale which is given to them, which is equivalent to Clerk, is illegal and arbitrary.

2. The learned senior counsel Mr.Cama, submitted that being accepted a particular service condition, the petitioner now cannot make out a new case as all the stenographers were appointed after 1980's Regulations came into force. He submitted that there is no arbitrariness or discrimination as from day one when the stenographers are appointed, they new that the service condition and the pay scale of Stenographer Grade III and other clerical staff is similar. It is submitted by Mr.Cama that the petition is otherwise required to be dismissed on the ground of delay as the regulations is of 1980 and the challenge is made in the year 2001.

3. At the time of hearing of this petition, it is pointed out by the respondent-Corporation that the identical issue was raised before the Delhi High Court in the Writ Petition No.2268 of 2000 in the case of Ajay Kumar Kaushik & Ors. V/s. Oil and Natural Gas Corporation Ltd. The Delhi High Court by its order dated 05-05-2006 found that no discrimination is involved in the policy and that it cannot be said that there is no arbitrariness or discrimination involved in the policy framed by the Corporation. It is true that the aforesaid petition was filed by concerned employees in their individual capacity. However, the question which was raised before the Delhi High Court was in connection with the very point raised in the petition, wherein the Court has considered the question about discrimination and arbitrariness on the ground that the functions of stenographers (Grade III) are superior to those of Assistants and that they should be treated as par in the matter of pay scale. The High Court after considering the scheme in detail has found that there is no substance in the petition. The concluding para of the said judgment reads as under : -

> "In the above conspectus of fact I am not persuaded to accept the contention of the petitioners that the respondents behaved in an arbitrary or discriminatory manner in picking and choosing a few stenographers for conferring a higher pay scale applicable to stenographers Grade II. The instances pointed out by the

> petitioners either relate to cases where the appointments had been made in 1968 after Grade III was abolished or at a point in time when the consistent practice was to make appointment in Grade II. In some cases, the appointments made to Grade III related to back log vacancies arising when the practice of making appointments to Grade II existed. All those instances pertained to vacancies and periods, when the selection processes was undertaken prior to coming into force of the 1980 Regulations. It is an undeniable fact that the petitioners were recruited as Stenographers Grade III much after the 1980 regulations came into force. They accepted the posts and worked in it. Many of them were promoted and were granted second promotions as well. In these circumstances, the complaint of discrimination and arbitrariness raised after such lapse of time, is neither justified nor actionable. Besides, the respondent has in my opinion, given reasonable justification for its action in extending stenographer Grade II grade to a few persons recruited before the petitioners. Therefore, on this score too, the writ petition is without merit.

4. The learned counsel for the petitioner during the course of hearing, could not point out as to how the scheme/regulation can be said to be arbitrary in any manner, as it is not in dispute that the stenographers have joined service after 1980 and all through out they accepted the pay scale and all service conditions and ultimately, after a considerable time i.e. more than two decades, the petition has been filed challenging the aforesaid regulation of 1980.

5. We are in agreement with the reasoning and view expressed by the Delhi High Court in the above referred judgment. The aforesaid judgment is against the very respondent-corporation on the same point. The learned counsel for the petitioner is not in a position to demonstrate as to how the rules and regulations of 1980 are arbitrary and discriminatory in any manner. Mr.Pakale, the learned counsel for the petitioner, has also conceded that the point raised in this petition, is similar to one which is decided by the Delhi High Court. The petitioners were admittedly appointed after 1980 regulations came into force. In our view, therefore, the regulations framed and the policy decision taken by the corporation, cannot be said to be arbitrary in any manner. We are of the opinion that the reasoning and view taken by the Delhi High Court in connection with the policy framed by the Corporation, cannot be said to be contrary and discriminatory in any manner.

6. In view of the aforesaid observations, we do not find any substance in the petition. The writ petition is accordingly dismissed with no order as to costs. Rule is discharged.

(R.M.SAVANT, J.) (P.B.MAJMUDAR, J.)